IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.NO.20303 OF 2001
DATED 14-12-2006

BETWEEN
Mr.U.Thalapathi.

.. PETITIONER

And

The Registrar of Cooperative Societies,
Andhra Pradesh, Hyderabad
and 4 others.

…RESPONDENTS

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.20303 OF 2001

ORDER:

This writ petition is filed seeking a writ of Mandamus directing the 1st respondent to appoint a Person In-charge (PAC) to the 5th respondent – The Voltas Employees Cooperative House Building Society Limited (hereinafter referred to as the society), consequent upon its failure to place the enquiry report dated 28.5.1998, under Section 51 of the Cooperative Societies Act, 1964 (for short 'the Act'), before the General Body within 30 days from the date of receipt of the same and thereby disqualifying itself to hold office as per Section 21-AA (5) of the Act.

As per the averments made in the affidavit filed in support of the writ petition, the petitioner is the founder member of the 5th respondent society. An enquiry under Section 51 of the Act was held into the affairs of the society by the 4th respondent – The Cooperative Sub-Registrar (Field), Secunderabad and a report was submitted on 28.5.1998 to the previous Managing Committee. The same was not placed before the General Body of the society, thereby disqualifying the committee to hold the office under Section 21-AA(5) of the Act. Thus he prays that the official respondents be directed to appoint a person in charge to the 5th respondent society.

The 4th respondent submitted the report on 28.5.1998 and the same was received by the society on 27.9.1998. By that time, there was no law for placing the report submitted by the enquiry officer under Section 51 of the Act before the General Body within 30 days. The amended Act came into force with effect from 25.4.2001. Section 21-AA (5) of the amended Act stipulates that the enquiry report under Section 51 of the Act shall be placed before the General Body within 30 days from the date of receipt of the same by the society. Therefore, the only question, which arises for consideration in this writ petition is

whether Section 21-AA (5) of the Act applies to the facts of the present case. However, the same need not be gone into by this court, in this writ petition, as the petitioner has filed WPMP No.32301 of 2006 seeking amendment of the prayer in the writ petition which reads as under.

> "For the reasons stated in the accompanying affidavit, pending further orders it is prayed that this Hon'ble Court may be pleased to permit the amendment of the prayer in the W.P.20303 of 2001 by adding "while declaring all the actions taken by R5 after 25.5.2001 including removal of the petitioner from the primary membership of the society vide proceedings dated 19.10.2002 as illegal and unconstitutional and pass such other order or orders as deemed fit and proper" after the words Act 22 of 2001 in para 15 of the affidavit filed in support of the writ petition".

Learned counsel for the petitioner contends that the amendment sought for is only a consequential prayer and, therefore, it does not alter the nature of the petition.

I am unable to agree with the submission made by the learned counsel for the petitioner. The amendment sought for has nothing to do with the relief sought for in the original writ petition. In the original writ petition, the prayer sought for is to direct the official respondents to appoint a person-in-charge, whereas the amendment sought for is to declare all the actions taken by R5 after 25.5.2001 including removal of the petitioner from the primary membership of the society vide proceedings dated 19.10.2002 as arbitrary and illegal. Such an amendment cannot be permitted since it alters the nature of the writ petition. Nothing prevented the petitioner from filing a fresh writ petition against that order to workout his remedies, as available to him, under law.

At this stage, learned counsel for the petitioner seeks permission of the Court to avail the statutory remedies available to him under law by raising a dispute under Section 61 of the Act.

It is always open to the petitioner to raise a dispute under Section 61 of the Act for redressal of his grievances. If any such dispute is raised by the petitioner within a period of two weeks from the date of receipt of a copy of this order, the same shall be entertained by the authorities without raising any objection as to limitation, since the writ petition was pending before this Court and dispose of the same, as expeditiously as possible within a period of six months from the date of raising the dispute without being influenced by the observations, if any, made by this Court in this order. The authorities may also consider the issue as to whether the amendment, which came into force with effect from 25.4.2001 applies to the facts of the present case.

Subject to the above observations, the writ petition is dismissed.

C.V.RAMULU,J

Dated 14.12.2006

Note:
Furnish CC by Tuesday.
(B/o)
msv